

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARTIN TELLEZ MONTOYA,

Defendant.

**4:12CR3055**

**MEMORANDUM AND ORDER**

Defendant has moved to continue the trial currently set for August 21, 2012. (Filing No. 33). As explained in the motion, the parties are currently engaged in plea discussions. The motion to continue is unopposed. Based on the showing set forth in the motion, the court finds the motion should be granted. Accordingly,

IT IS ORDERED:

- 1) Defendant's motion to continue, (filing no. 33), is granted.
- 2) The trial of this case is set to commence before the Honorable John M. Gerrard, in Courtroom 1, United States Courthouse, Lincoln, Nebraska at 9:00 a.m. on October 9, 2012, or as soon thereafter as the case may be called, for a duration of five (5) trial days. Jury selection will be held at commencement of trial.
- 3) Based upon the showing set forth in the defendant's motion and the representations of counsel, the Court further finds that the ends of justice will be served by continuing the trial; and that the purposes served by continuing the trial date in this case outweigh the interest of the defendant and the public in a speedy trial. Accordingly, the additional time arising as a result of the granting of the motion, the time between today's date and October 9, 2012, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, because despite counsel's due diligence, additional time is needed to adequately prepare this case for trial and failing to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(1), (h)(6) & (h)(7).

August 15, 2012.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge